

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

MARIO JONES,)
vs.)
Petitioner/Defendant,) CIVIL NO. 09-225-GPM
vs.) CRIMINAL NO. 07-30097-GPM
UNITED STATES of AMERICA ,)
vs.)
Respondent/Plaintiff.)

MEMORANDUM AND ORDER

MURPHY, District Judge:

This matter is before the Court on Petitioner Mario Jones's motion for relief pursuant to 28 U.S.C. § 2255. Following a jury trial, Jones was found guilty of being a felon in possession of a firearm. He was sentenced to 115 months imprisonment, three years supervised release, a fine of \$150, and a special assessment of \$100.

On appeal, defense counsel – who served as trial and appellate counsel – filed an *Anders* brief, *see Anders v. California*, 386 U.S. 738 (1967), presenting three potential issues that could be raised on appeal. The first potential issue involved the Court's exclusion during closing argument of any discussion about a highly publicized confrontation between a motorist and a police officer. The Seventh Circuit Court of Appeals found that because that incident had no relation to Jones's case, this argument was frivolous. *United States v. Jones*, Appeal No. 08-1122, 280 Fed. Appx. 542 (7th Cir. June 4, 2008). Two other arguments regarding Jones's sentence also were raised, discussed, and rejected as frivolous. The final argument involved ineffective assistance of counsel at trial. The Court of Appeals found that such a claim was better reserved for a collateral proceeding.

Taking that cue, Jones filed the instant motion under § 2255. In his motion, Jones raises two grounds for relief: (1) trial counsel was ineffective in failing to advise Jones of his right to accept responsibility, which would have garnered him a reduction in his sentence, and (2) trial counsel was ineffective in failing to challenge a sentence enhancement stemming from a 1992 juvenile conviction.

Jones later filed a motion to supplement, in which he seeks to add an argument that counsel was ineffective by failing to challenge on direct appeal the Court's refusal to allow certain evidence regarding an altercation between a motorist and the police. But counsel did raise that argument in his *Anders* brief, and the Court of Appeals agreed that the argument was frivolous. Thus, the motion to supplement (Doc. 3) is **DENIED**.

The Court **ORDERS** the Government to file a response to Jones's motion within **THIRTY (30) DAYS** of the date of this Order. That response shall address only Jones's two arguments contained in his original motion (Doc. 1). The Government shall, as part of its response, attach all relevant portions of the record.

Jones's motion seeking expedited review of this matter (Doc. 2) is **DENIED as moot**.

IT IS SO ORDERED.

DATED: 12/01/09

s/ G. Patrick Murphy
G. PATRICK MURPHY
United States District Judge